

REMARKS

STATUS OF THE CLAIMS

Claims 1, 5-11, 14-16, 19, 22-24, 31, 32 and 34-37 are pending as shown in the Claims Appendix of the Appeal Brief. Claims 2-4, 12, 13, 17, 18, 20, 21 and 25-30 have been canceled. Claims 5, 6, 22, 31, 32, 34, 35, 36, and 37 have been withdrawn from consideration. Claims 1, 7-11, 14-16, 19, 23 and 24 were appealed. Upon reopening of prosecution after filing of the Appeal Brief, the examined and appealed claims were newly rejected.

NEW REJECTIONS

Applicants note that prosecution has been reopened and U.S. Patent No. 5,658,308 (hereinafter “Snyder”) newly applied, alone and in combination with various references already addressed.

35 U.S.C. § 102(b)

Claims 1, 7, 11, 19 and 24 were newly rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Snyder. (Office Action, page 2). Snyder was cited for allegedly disclosing “a vaso-occlusive coil for treating aneurysms having a thrombogenic/fibrinogenic bioactive coating (see, figures 1-3 and claims 2 and 3).” *Id.*

In reality, Snyder does not disclose bioactive materials as recited in the pending claims. Snyder is silent as to fibrin; polyethylene glycol derivatives; thrombin-coated gelatin granules; balloons coated with iron microspheres; trace metals; and thrombus-stabilizing molecules as claimed. Rather, as defined in claims 2 and 3 and shown in the drawings, the bioactive materials of Snyder are thrombogenic polymeric stands (*e.g.*, high density polyethylene, silk, polyurethane, polyesters such as nylon or polyethylene terephthalate, polyglycolic acid, polylactic acid, etc.). *See*, Snyder at col. 2, lines 45-50. In other words, Snyder’s disclosure of thrombogenic polymeric strands extending through the lumen of a vaso-occlusive does not anticipate the subject matter of claims 1, 7, 11, 19 or 24 and, accordingly, withdrawal of the rejection is in order.

35 U.S.C. § 103

A. Claims 8, 9, 10 and 23

Claims 8, 9, 10 and 23 were newly rejected under 35 U.S.C. § 103(a) as allegedly obvious over Snyder in view of U.S. Patent No. 4,414,976 (hereinafter “Schwarz”). (Office Action, pages 2-3). Snyder was cited as above and Schwarz was cited for allegedly teaching a tissue adhesive made with Factor XIII, plasminogen activator inhibitor or plasmin inhibitor. *Id.*

For the reasons detailed above, Snyder fails to disclose in any way the particular bioactive materials of the claimed devices.

For its part, Schwarz is completely silent as to coils or vessel occlusion, disclosing instead a tissue adhesive comprising fibrinogen and Factor XIII to “seamlessly connecting tissue or organ parts, for sealing wounds, stopping bleeding and stimulating wound healing in mammals.” *See*, claim 1 of Schwarz.

There is no suggestion in either reference that polymeric strands running through the lumen of a vaso-occlusive coil and Factor XIII-fibrinogen compositions are interchangeable. Thus, there is no motivation to combine the references as suggested.

Furthermore, the allegation that the motivation to combine the references derives from the fact that both Snyder’s coils with polymeric strands and Schwarz’s composition are used to in the vascular system, is contradicted by the references themselves. Indeed, contrary to the Examiner’s assertion, the cited references **teach away** from any interchangeability of coils with polymers extending therethrough (Snyder) and Factor XIII-containing compositions (Schwarz). Whereas Schwarz’s tissue adhesives are applied directly to an exposed site (*i.e.*, surface wound or organ exposed during surgery), Snyder teaches coils with polymeric strands for delivery to a remote vessel. The skilled artisan reading Snyder or Schwarz would not be motivated to replace the polymeric strands with any topical tissue adhesives (such as Schwarz). Instead, the skilled artisan would have clearly recognized that Schwarz did not suggest infusing Factor XIII-containing compositions to occlude a vessel that was not directly exposed to the surgeon. As such, there is no motivation to substitute Schwarz’s Factor XIII-fibrinogen composition for Snyder’s resins because the two compositions have clearly different indications and a skilled artisan would not have recognized a topical liquid tissue adhesive (Schwarz) as a substitute for solid polymeric threads (Snyder). Thus, withdrawal of the rejection is in order.

B. Claim 14

Claim 14 was newly rejected as allegedly obvious over Snyder in view of U.S. Patent No. 6,231,590 (hereinafter “Slaikeu”). (Office Action, page 3). Snyder was cited as above and Slaikeu was cited for teaching plasma treated devices. *Id.*

For the reasons listed above, Snyder in no way teaches or suggests the claimed subject matter. Indeed, Snyder’s polymeric strands are not the compositions claimed by Applicants. Accordingly, the skilled artisan would not (and indeed could not) have been motivated from Snyder, alone or in combination with Slaikeu to arrive at the invention of claim 14.

B. Claim 15

Claim 15 was newly rejected as allegedly obvious over Snyder in view of U.S. Patent No. 5,891,192 (hereinafter “Murayama”). (Office Action, page 3). Snyder was cited as above and Slaikeu was cited for teaching ion implantation. *Id.*

Since Snyder does not teach or suggest the particularly claimed bioactive materials, the skilled artisan would not (and indeed could not) have been motivated from Snyder in any combination with Murayama, to arrive at the invention of claim 15. Accordingly, withdrawal of the rejection is in order.

C. Claim 16

Claim 16 was newly rejected as allegedly obvious over Snyder in view of U.S. Patent No. 6,526,979 (hereinafter “Nikolchev”). (Office Action, page 4). Snyder was cited as above and Nikolchev was cited for teaching microtexturing. *Id.*

For the reasons listed above with respect to the rejections of claims 14 and 15, there is no motivation to combine Snyder’s polymeric threaded devices with anything disclosed in Nikolchev. Thus, the rejection is untenable.

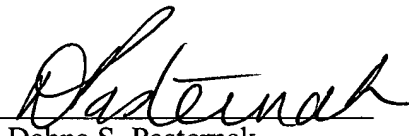
CONCLUSION

For the reasons discussed above, Applicants submit that the claims are in condition for allowance and request early notification to that effect.

If the Examiner has any further issues or wishes to discuss any of the foregoing, she is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

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